



N.J. Department of Law and Public Safety  
Division of Consumer Affairs  
**State Real Estate Appraiser Board**  
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# STATE REAL ESTATE APPRAISER

BOARD NEWSLETTER

Summer 2001

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## *Flipping:* Dangerous Maneuvers for Appraisers

A "flip" can best be described as:

- a) A gymnastic move not suggested for persons over age 12;
- b) The transfer of real property in which fraud is used to obtain inflated prices and loans;
- c) A cooking technique associated with pancakes.

If you answered "b" to the above question, you may already be aware of one of the fastest growing areas of appraiser litigation today – real estate flipping schemes. Armed with false paperwork and deceptive sales pitches, flippers are exploiting some of the country's most fragile neighborhoods and gullible citizens. Posing as real estate investors, they purchase rundown houses and resell them, sometimes within hours, to unsuspecting buyers at significantly higher prices. Typically, the flipper, with the aid of a mortgage broker, prepares a package of documents that includes a falsified loan application and other papers designed to legitimize the deal and make the buyer appear creditworthy. Such documents usually misrepresent the buyer's down payment, employment, income and assets.

Unfortunately, the transaction cannot take place without an appraisal. In order for the lender to make the loan, the appraisal must substantiate the higher purchase price. After the sale is complete and the buyer realizes he paid much more than the house is worth, he is often unable to fulfill the terms of the loan. In the event of a lawsuit, the appraiser may be named as a co-defendant for fraudulently inflating the value of the property.

Sometimes, appraisers knowingly fail to disclose in the appraisal report that the property had been acquired by the flipper days, weeks, or months earlier for a substantially lower price. In one case, the appraiser stated that he failed to disclose this information because he didn't believe it to be relevant. Another appraiser didn't disclose the lower purchase price because his client asked him not to. In other cases, the appraisers, too, are victims of the scheme since comparable market sales have been created by a series of flipped transactions. At any rate, appraisers need to recognize a potential flip and take measures to protect themselves against litigation. The following scenario will illustrate a typical flip and how you may avoid being drawn into these situations.

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*This newsletter is published by the State Real Estate Appraiser Board for its licensees. Inquires should be addressed to: State Real Estate Appraiser Board, Department of Law and Public Safety, New Jersey Division of Consumer Affairs, P.O. Box 45032, Newark, NJ 07101*

## Highlights for 1999 and 2000

In 1999, the following activity with respect to complaints and dispositions was undertaken by the State Real Estate Appraiser Board:

- received 43 complaints;
- held 19 investigative inquiries;
- held 1 formal hearing;
- conducted 4 criminal background check interviews;
- closed out 40 cases;
- continued to review 25 other cases;
- imposed 49 sanctions against licensees;
- returned \$500 in restitution to affected consumers; and
- assessed \$23,500 in penalties.

In 2000, the following activity with respect to complaints and dispositions was undertaken by the Real Estate Appraiser Board:

- received 42 complaints;
- held 32 investigative inquiries;
- conducted three formal hearings;
- interviewed 1 complainant;
- conducted 6 criminal background check interviews;
- conducted 1 instructor-applicant interview;
- conducted 2 sets of pre-complaint questioning, where one was continued;
- issued 9 public reprimands;
- total civil penalties assessed were \$19,250; and
- total costs assessed were \$1,450.50.

Ms. Byar was a single mom living in a subsidized housing project, making about \$300 a week as a bus driver and had poor credit. She heard through the grapevine about an "investor," Mr. Flip, who could help her buy her own home for a \$500 down payment. She contacted Mr. Flip, who proceeded to show her several homes in the mid-city area. Eventually, Ms. Byar found a home she liked. Unbeknownst to Ms. Byar, Flip had purchased the home a few weeks earlier for \$10,000.

Initially, Byar was concerned about the condition of the home. It had old and stained carpeting, dirty walls, and missing or damaged fixtures and appliances. Flip immediately eased her worries by telling her he intended to completely renovate the home with new carpeting, fixtures, appliances, and a paint job. Flip offered to sell the property to Ms. Byar for \$50,000, with a down payment of \$500. Byar thought this was a great deal and agreed to purchase the home.

Flip then contacted an out-of-town appraiser who valued the home at \$80,000 after completion of the promised renovations. Flip convinced the appraiser that the home would be worth this amount by showing the appraiser a list of comparable sales, all located within the same neighborhood and reflecting values of \$70,000-\$90,000. The appraiser knew that Flip had purchased the property a short time earlier for \$10,000. However, Flip explained that he was an investor who bought packets of rundown homes, fixed them up and resold them for a profit. He was concerned the loan underwriter might be "misled" by the prior purchase price and would not approve the loan. The appraiser agreed to omit the lower purchase price from the report. Mr. Flip appeared to be an honest guy, and, since Flip was a big-time investor, the appraiser hoped to get more assignments from him in the future.

Additionally, Flip took Ms. Byar to his friend, a mortgage broker, to help her secure financing. The broker and Flip prepared a falsified loan package designed to mislead the lender. The documents indicated the property was being sold for \$80,000, instead of the \$50,000 he promised Ms. Byar. The package sought a first-trust deed of \$64,000 (80% of the purchase price). A false loan application was prepared which significantly overstated Ms. Byar's income, assets and the down payment. When the broker asked Ms. Byar to sign the documents, they were placed in a neat stack with arrows and clips indicating where she should sign. He told her the documents were in order and that she didn't need to read all that legal jargon. Flip explained they would let her know as soon as her loan came through so she could arrange to move in.

Shortly after moving in to her new home, Ms. Byar received a packet of loan documents. In all the confusion of unpacking, she didn't actually read the papers, but just filed them away. Her first surprise came when she received her mortgage statement. Her monthly payment was much higher than she expected and the statement indicated she had a mortgage of \$64,000! Unfortunately for Ms. Byar, the lender verified that the statement was correct. Ms. Byar immediately made telephone calls to Mr. Flip and the mortgage broker. As you may expect, her calls were not returned. The next call Ms. Byar made was to a lawyer.

Mr. Flip initially paid \$10,000 for the property. His repairs were of poor quality and workmanship, and cost him around \$4,000. He also paid \$300 for the appraisal and a few thousand dollars in closing costs. As the seller, he received \$64,000 in loan proceeds and a \$500 down payment. Not a bad profit! Ms. Byar was unable to make her mortgage payments and defaulted on her loan, damaging her already poor credit. The lender foreclosed on a property with a \$64,000 loan that has an actual value of less than \$20,000.

### **Meeting Dates**

The New Jersey State Real Estate Appraisers Board meets on the second Tuesday of each month in Newark at 124 Halsey Street, on the sixth floor, commencing at 9:30 a.m. There is a barrier-free entrance on the Cedar Street side of the building.

Members of the public are invited to attend the public session of the monthly meetings beginning at 9:30 a.m. If you are interested in attending the public session, please call the Board's office to confirm the time and location of the meeting.

Upcoming meeting dates for the remaining months of 2001 are as follows:

September 11  
October 9  
November 13  
December 11

Mr. Flip despite the fact that he engaged in well over 100 similar transactions, has filed a petition for bankruptcy, claiming his liabilities exceed his total assets. Unfortunately, the appraiser has now been sued for more than \$100,000.

There are many lessons to be learned from the conduct of the appraiser in this situation:

*Be wary of information provided by the client - especially when the client says you don't need to verify it.* The appraiser in this situation should never have relied upon the comparables provided to him by Mr. Flip. Aside from verifying that the figures were accurate, some additional investigation in light of the lower purchase price would have been warranted. Had the appraiser done so, he would have noted numerous other sales of similar properties in the same neighborhood for significantly lower values than those offered by Mr. Flip. In fact, the comparables provided by Flip were sales of prior flipped properties.

*Take care when accepting assignments outside your geographical area of expertise.* If our appraiser had been familiar with the local market he would have immediately recognized that the value being sought was abnormally high. An appraiser performing an inspection outside his customary area should take steps to become familiar with the local market. It would be pertinent to consult with a local ap-

praiser or realtor to insure that you gather accurate and complete information.

*Always analyze the listing and sales history of the subject property when such information is available.* Often second or third time flips can be discovered at this stage in the investigation. If the property has been sought and sold a number of times over the past year, or if the seller in the sales agreement is not the owner on record, then you may be dealing with a flipped property. A large discrepancy in the purchase and sales price for properties held only a short time is also a big clue.

*Never intentionally omit prior sales history.* Our appraiser made a huge mistake in leaving this information out of his report at the client's request. By failing to disclose prior sales, the appraiser provided a report that was misleading. It is very difficult to defend an appraiser in a lawsuit whose actions so clearly indicate culpability.

Legitimate investors are buying and selling real estate every day at a profit. There's nothing illegal about that; indeed, appraisers flourish in a healthy real estate market. However, there are individuals out there who attempt to defraud buyers and lenders through a series of misrepresentations and falsified documents. Often the appraiser is unwittingly caught in the crossfire when the fraud is discovered. By conducting a thorough investigation (and with a good dose of common

sense) you can help avoid being Mr. Flip's next victim.

The foregoing initially appeared as a "Claim Alert" and is reprinted with the permission of the Appraisers Liability Insurance Trust (ALIT).

Unfortunately, the New Jersey Board of Real Estate Appraisers has become aware of and is currently actively investigating numerous potential "flipping" scams. To date, the Board has taken disciplinary action against five (5) New Jersey appraisers involved in fraudulent transactions related to in excess of one hundred (100) properties. These proceedings have resulted in four (4) Orders of Voluntary Temporary Suspension and one (1) Order of Revocation.

The Board is currently working with state and federal law enforcement agencies and the New Jersey Real Estate Commission in connection with ongoing investigations that are expected to result in the initiation of disciplinary proceedings against additional licensees.

In order to avoid inadvertently participating in a flipping scam appraisers need to pay careful attention to the "lessons learned from the scenario" described by ALIT.

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## Failure to Repay Student Loans

Former Governor Christine Todd Whitman signed into law P.L. 1999, c. 54, effective June 8, 1999, which permits the Director of the Division of Consumer Affairs, or any of the professional boards which issue licenses, to suspend any licensee who defaults on a state or federal education loan. The license will not be reinstated until the licensee provides the executive director of the board with a written release, issued by the lender or guarantor, which says that he or she has paid the loan in full, or is making payments in accordance with a repayment agreement approved by the lender or guarantor.

### Reprimanded

**ERNEST R. DARPINO**, a Certified General Real Estate Appraiser (RG-00610) of Medford Lakes, New Jersey, and **JAMES SHEPLEY**, a State Certified Real Estate Appraiser (RC-00416) of Columbus, New Jersey, signed a Consent Order issued by the Board, admitting to violations of the Board's Enabling Act and also the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) when preparing and issuing three appraisals. Both Mr. Darpino and Mr. Shepley accepted formal reprimands from the Board, agreed to complete a course in USPAP within six months of the filing of the order and paid costs in the amount of \$3,000.

**ALLISON ETCHELLS**, a certified General Real Estate Appraiser (RG-00628) of Titusville, New Jersey, signed a settlement letter issued by the Board, admitting that he violated N.J.A.C. 13:40A-6.1 and N.J.S.A. 45:1-21 e. Mr. Etchells received a formal reprimand, and agreed to successfully complete a course in USPAP within six months of the filing of the order. Mr. Etchells was also assessed costs of \$290.

### Suspended

**JOHN TED GWARTNEY**, a State Certified Real Estate Appraiser (RC-01417) of Amityville, New York, had his license suspended for non-completion of required education credits pursuant to N.J.A.C. 13:40A-5.2, and was ordered to pay a \$250 civil penalty (N.J.S.A. 45:1-25).

**JOHN J. WORHOL**, a State Certified Real Estate Appraiser (RC-00424) of Freehold, New Jersey, was suspended for not replying to the Board's request for proof that he satisfied the continuing education requirement and

failed to provide the information to the Board pursuant to N.J.A.C. 12:45-1.3(a) as well as fining Worhol \$250 in civil penalties (N.J.S.A. 45:1-25).

**ACKLEY O. ELMER II**, a State Certified Real Estate Appraiser of Somers Point, New Jersey, was suspended for allegedly accepting payment for appraisal reports which he never completed. This constituted professional misconduct pursuant to N.J.S.A. 45:1-21e as well as failing to maintain appraisal workfiles as required by the recordkeeping section of the Ethics Provision of the USPAP. Elmer failed to comply with USPAP standards as required by N.J.A.C. 13:40A-6.1 and was assessed civil penalties of \$5,000 plus the costs of the Board. A USPAP course of at least 15 hours is also required.

**DOUGLAS SCRUGGS**, a Certified General Real Estate Appraiser (RC-001238), appeared before the Board in connection with allegedly submitting appraisal reports that far exceeded the amount at which comparable properties were purportedly sold, all of which were to have been signed by Douglas Scruggs. At Mr. Scruggs's appearance before the Board he asserted, upon advice of counsel, his privilege against self-incrimination and declined to testify to a number of questions posed by the deputy attorney general. He also failed to provide information or records relating to his conduct as a licensee. This constituted failure to cooperate as specifically defined by N.J.A.C. 13:45C-1.3 and, thus, a final order of discipline suspending his license was filed on July 26, 1999.

**SAL CITTADINO**, a State Certified Real Estate Appraiser (RC-00427) of Wharton, New Jersey, was suspended for violating N.J.A.C. 13:40-6.1(a) which requires that all appraisers adhere to USPAP. A course in USPAP of

at least 15 hours is required and a civil penalty of \$2,500 was imposed plus the costs of the Board.

### Surrendered

**RICHARD CALANNI**, a State Certified Real Estate Appraiser (RC-00900) of Tinton Falls, New Jersey, surrendered his license after he was indicted by the U.S. District Court for wire fraud and conspiracy to commit wire fraud.

**THOMAS BRODO**, a State Licensed Real Estate Appraiser (RA-32250) of Teaneck, New Jersey, surrendered his license after he was indicted by the U.S. District Court for wire fraud and conspiracy to commit wire fraud.

**ROLAND PIERSON**, a State Licensed Real Estate Appraiser (RA-02142) of Jackson, New Jersey, surrendered his license after he was indicted by the U.S. District Court for wire fraud and conspiracy to commit wire fraud.

**ROBERT S. YEAGER**, a State Licensed Real Estate Appraiser (RA-03329) of Ewing, New Jersey, voluntarily surrendered his license for violations of N.J.S.A. 45:1-21 and for not complying USPAP. Upon the surrender of his license and signing of the Consent Order, Yeager agrees that he will not reapply to obtain licensure as a real estate appraiser in New Jersey. Yeager was also assessed with a civil penalty of \$500.

# Summary of the Key Changes to the 2001 Edition of USPAP

Excerpted from the Foundation News (Volume 11, number 1) (March 2000), a newsletter published semi-annually by The Appraisal Foundation, 1029 Vermont Avenue NW, Suite 900, Washington D.C. 20005.

**Format:** Consecutive line numbers have been added to the document to facilitate referencing sections of the document and identifying changes from the previous edition.

**Ethics Rule:** The confidentiality section has been changed to further clarify an appraiser's obligation to act in good faith when using confidential information provided by a client.

## **Competency**

**Rule:** The Competency Rule has been modified to acknowledge that different kinds of competency, in addition to "geographic" competency, may be necessary in an assignment.

**Definitions:** Modifications were made to the definitions of "confidential information," "personal property" and "report." The definition of "review" was replaced with a definition of "appraisal review." "Assignment results" was added as a new definition.

**Standard 1:** Standards Rule 1-2(f) was modified to identify more specifically the parties associated with the appraiser's scope-of-work obligations.

Standard 2: Standards Rule 2-4 was changed to clarify what compliance with the rule means and to permit departure when the appraiser is not able to comply.

**Standard 3:** Changes to Standard 3 restructure for the requirements for better organization, consistency and understandability in appraisal review, clarify a number of sections in the Standard, and incorporate personal property valuation into the Standard's text. \*See Note for additional changes.

## **Standard 7**

**and 8:** These Standards were comprehensively updated to reflect changes in the personal property discipline in recent years and to ensure consistency with other sections of the document.

## **Standard 9**

**and 10:** These Standards were comprehensively updated to reflect changes in the business valuation discipline in recent years with other sections of the document.

**Statements:** Statement 1 was retired. Statements 3,4,5,6,7 and 9 have been edited to add references and/or text consistent with terminology used in the context of Standard 8.

## **Advisory**

**Opinions:** Advisory Opinion 8 was updated to reflect current Financial Accounting Standards Board (FASB) references to "fair value." Advisory Opinion 19, Unacceptable Assignment Conditions in Real Property Appraisal Assignments, was added.

\*Note: There were several changes made to STANDARD 3, which addresses appraisal reviews. Some of these are briefly summarized as follows:

- Statement 1 has been retired, with the pertinent information incorporated into STANDARD 3.
- This standard now applies to personal property appraisal reviews, as well as real property appraisal reviews.
- The term "Review Appraiser" has been replaced with "Reviewer," and "Review Appraisal" with "Appraisal Review." These new terms should help avoid confusing implications, such as that an appraisal is always part of a review assignment.
- An appraisal review assignment can now include all, or part of, the work of an appraiser.
- The definition of "Review" in USPAP has been replaced with the "Appraisal Review": "the act or process of developing and communicating an opinion about the quality of another appraiser's work...."
- The activities of the appraisal review function have been more clearly delineated between the reviewer providing an appraisal review opinion, alone, and providing the opinion of value (i.e., an appraisal) when that is a second purpose within the same assignment.

In order to satisfy the requirements of STANDARD 1 or 7 when a reviewer's opinion of value is required, a reviewer's opinion may extend into his or her development process those portions of the original appraisal concluded to be credible and in compliance with STANDARD 1, based on extraordinary assumption. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer, developed in conformance with STANDARD 1 or 7, as applicable, to produce a credible value opinion.

The reviewer's scope of work can be different from the scope of the original work under review.

The reviewer may include his or her own value opinion within the appraisal review report itself without preparing a separate appraisal report. However, changes to the report content by the reviewer to support a separate value conclusion must match, at a minimum, the reporting requirements (Self-Contained, Summary or Restricted Use of Appraisal Report) of the Report under review.

## Moving? Be Sure to Notify the Board Office

Please notify the office immediately of any change in your address. As required by N.J.A.C. 13:40-7.1, licensees must notify their licensing Board within 30 days of an address change. You may use the change of address form located on the back of your license or notify the Board in writing. A \$25 fee is charged for processing and recording the change.

During the last renewal period, the Board office received many calls from licensees who had not received renewal forms. The majority of these callers failed to submit address change requests prior to the renewal period and were required to pay an additional \$100 as a late renewal fee.

To avoid having your license lapse and the imposition of additional fines, make sure that your current address is on file with the Board.

### CHANGE OF ADDRESS NOTICE

(Please type or print all information)

\_\_\_\_\_  
Name

\_\_\_\_\_  
License number

\_\_\_\_\_  
Old address

\_\_\_\_\_  
New address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date